

**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

OCT 21 2019

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 19-30208

Plaintiff-Appellee,

D.C. No. 3:18-cr-00319-JO-7  
District of Oregon,  
Portland

v.

JOSEPH DUANE FOLKERTS,

ORDER

Defendant-Appellant.

Before: SILVERMAN, W. FLETCHER, and RAWLINSON, Circuit Judges.

This is an appeal from the district court's pretrial detention order. We have jurisdiction pursuant to 18 U.S.C. § 3145(c) and 28 U.S.C. § 1291.

We review the district court's factual findings concerning the danger that appellant poses to the community under a "deferential, clearly erroneous standard." *United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008) (quoting *United States v. Townsend*, 897 F.2d 989, 994 (9th Cir. 1990)). The conclusions based on such factual findings, however, present a mixed question of fact and law. *Hir*, 517 F.3d at 1086. Thus, "the question of whether the district court's factual determinations justify the pretrial detention order is reviewed de novo." *Id.* at 1086-87 (citations omitted).

The district court correctly found that the government has met its burden of showing, by clear and convincing evidence, that "no condition or combination of

conditions will reasonably assure . . . the safety of . . . the community," 18 U.S.C. § 3142(e), and that appellant therefore poses a danger to the community. *See Hir,* 517 F.3d at 1094. We therefore affirm the district court's pretrial detention order. Appellant's motion to seal (Docket Entry No. 8) is granted.

**AFFIRMED.**